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Docket No.: 1293.1215

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Sung-hee Hwang et al.

Serial No. 10/022,826

Group Art Unit: 2133

Confirmation No. 1431

Filed: September 23, 2003

Examiner: Joseph D. Torres, PhD

For: OPTICAL RECORDING MEDIUM, DATA RECORDING OR REPRODUCING  
APPARATUS, AND DATA RECORDING OR REPRODUCING METHOD USED BY THE  
DATA RECORDING OR REPRODUCING APPARATUS

**RESPONSE TO RESTRICTION REQUIREMENT**

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Sir:

This is responsive to the Office Action mailed March 14, 2005 having a shortened period for response set to expire on April 14, 2005, the following remarks are provided and reconsideration is respectfully requested.

I. Provisional Election of Claims Pursuant to 37 CFR §1.142

Applicants provisionally elect **Group I, claims 1-3, 5-8 and 32-41**, in response to the restriction requirement set forth in the Office Action.

II. Applicants Traverse the Requirement

Insofar as Group II is concerned, it is believed that claims 9-11, 13-19, 21-24, 26-29 and 42-45 are so closely related to elected claims 1-3, 5-8 and 32-41 that they should remain in the same application. The elected claims 1-3, 5-8 and 32-41 are directed to a method of recording data on a disc involving interleaving data from a plurality of ECC blocks. Group II claims similarly recite interleaving ECC blocks to record data on an optical disc. There have been no

references cited to show any necessity for requiring restriction and, in fact, it is believed that the Examiner would find references containing optical discs using ECC blocks for recording in the same fields of technology.

Additionally, both Groups I and II are within the Election filed by Applicants on August 6, 2004. It is unclear why an additional election is necessary to a previously identified group. Requiring a second restriction would cause the Applicants additional expense and delay to Applicants in having to protect the additional subject matter by filing at least one additional divisional application.

MPEP §803 sets forth the criteria for restriction between patentably distinct inventions. (A) indicates that the inventions must be independent (see MPEP §802.01, §806.04, §808.01) or distinct as claimed (see MPEP §806.05-806.05(i)); and (B) indicates that there must be a serious burden on the Examiner if restriction is required (see MPEP §803.02, §806.04(a)- §806.04(i), §808.01(a) and §808.02). The Examiner has not set forth why there would be a serious burden if restriction is required.

Further, the making of an election species is not mandatory in all instances where it is possible to do so. Rather, the Examiner may use his/her discretion and choose not to make an election of species where circumstances warrant. It is believed that such is the case in the subject application. Therefore, Applicants request, under 37 CFR § 1.143, that the Examiner reconsider and withdraw the election requirement set forth in the above-noted Office Action.

### III. Conclusion

It is respectfully submitted that upon reconsideration of the Examiner's initial restriction requirement, pending claims from groups I and II should be examined in the subject application.

In view of the foregoing arguments and remarks, all claims are deemed to be allowable and this application is believed to be in condition for allowance.

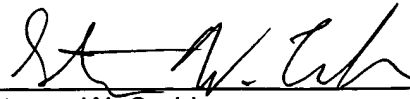
If any further fees are required in connection with the filing of this Amendment, please charge the same to our deposit account number 503333.

Should any questions remain unresolved, the Examiner is requested to telephone Applicants' attorney.

Respectfully submitted,

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Date: 4/12/05

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